IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7466 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MARUTI (MANDAL) MEMBER ASSOCIATION

Versus

GEB

Appearance:

MR JA ADESHRA for Petitioner

MR AD OZA for Respondent No. 1, 2

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 20/01/2000

ORAL JUDGEMENT

Rule. Mr. A.D. Oza, learned counsel for the respondents, waives service of rule.

The grievance of the petitioner is that fresh power supply is not given to the petitioner by the

respondent Electricity Board on the footing that the dues payable by the earlier consumer have not been cleared. In view of the decision of the Supreme Court in M/s. Isha Marbles Vs. Bihar State Electricity Board and Anr. reported in JT 1995(2) SC 626, the Electricity Board cannot insist on payment of dues of the earlier consumer. As held by the Supreme Court the Electricity Board cannot seek enforcement of the contractual liability of the original defaulter against a third party, an auction purchaser in that case. In M/s. Sarvoday Corporation Vs. Gujarat State Electricity Board and Anr. reported in 36(1) GLR 196 this court held that the subsequent unit was not a legal representative of the earlier unit and the Gujarat Electricity Board cannot recover the dues of the earlier unit from the new unit. The respondents therefore cannot refuse electricity supply to the petitioner's members on the ground that the dues of the original defaulter were not paid. The respondents are accordingly directed to consider the case of the petitioner's members in accordance with law and in the light of the ratio of the decisions in M/s. Isha Marbles Vs. Bihar State Electricity Board and Anr. (supra) and M/s. Sarvoday Corporation Vs. Gujarat Electricity Board and Anr. (supra). The petition is accordingly allowed and the Rule is made absolute with no order as to costs. Direct service is permitted.

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